

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI**

JAMIE ARNOLD, *et al.*

Plaintiffs,

v.

DIRECTV, LLC.,

Defendants.

Case No. 4:10-CV-00352-JAR

**JOINT STATUS REPORT AND PROPOSED SCHEDULING ORDER**

On April 29, 2016, the Court held a status conference in chambers during which the Court directed the parties to discuss the prospects of settlement or, alternatively, their respective positions on a discovery plan in light of the Court's order lifting its prior stay of certain claims for arbitration. (Doc. 443).

Following that conference the parties undertook to evaluate whether mediation would be productive at this time. DIRECTV provided certain data on the Multiband and MasTec subclasses—as well as information on other related cases not pending before this Court—and plaintiffs constructed a litigation-wide damages model. Having undertaken those efforts, as of now, the parties were not able to reach a joint agreement to refer this case to mediation. The parties do not foreclose the possibility of settlement in the future, but at this stage, mediation would not be productive. Accordingly, the parties met and conferred on the following proposed schedule to complete certain necessary discovery and prepare this case for resolution on the merits:

1. Subject to the parties' ongoing duty to supplement prior discovery, the parties agree that discovery shall be reopened solely with respect to the claims

of the MasTec and Multiband opt-in Plaintiffs who were the subject of the Court's order at Doc No. 443 (the "previously-stayed plaintiffs").

2. Plaintiffs will serve subpoenas on MasTec and Multiband by June 17, 2016 requesting those HSPs to provide the most recent address information and other needed payroll and timekeeping data related to the previously-stayed plaintiffs. Plaintiffs will ask that the most recent address information—which is needed to facilitate sending those plaintiffs a questionnaire—be produced within 14 days. Plaintiffs will request that the balance of the requested information be produced within 30 days. DIRECTV will supplement its discovery responses with respect to the previously-stayed plaintiffs—primarily gathering and producing SIEBEL data—by September 30, 2016.

3. Plaintiffs will send the parties' agreed upon discovery questionnaire to the previously-stayed plaintiffs within seven days of receiving the updated address information from MasTec and Multiband. Presuming those entities produce that information within 14 days as requested, the questionnaires will be mailed on July 8, 2016.

4. The parties agree that the previously-stayed plaintiffs shall have 60 days to answer the questionnaire. The parties disagree as to whether those individuals should be required to answer the questionnaire to participate in this case as opt-in plaintiffs. DIRECTV maintains that for the reasons set forth in this Court's Order dismissing without prejudice opt-in Plaintiffs who failed to respond to the discovery questionnaire [Doc. No. 214] individuals who do not answer the discovery questionnaire should be dismissed because their failure to respond

deprives DIRECTV of critical discovery necessary to defend the case and makes it “impossible for the Court to determine whether they are similarly situated such that they could proceed collectively in this action.” Doc. No. 214 at Page ID # 8573-8574. Plaintiffs maintain that the procedural history related to the previously-stayed plaintiffs, the existence of significant information maintained by DIRECTV on these plaintiffs that has been discovered since the Court’s prior order, and the recent guidance from the Supreme Court on managing FLSA representative actions all warrant a different result. Rather than attempt to fully explain their competing positions here, the parties propose that Defendant shall move to dismiss the non-responders by August 12, 2016. Opposition and Reply briefing shall be governed by the local rules.

5. DIRECTV anticipates requesting to depose a certain number of the previously-stayed plaintiffs. DIRECTV is not able to state how many such depositions it will request until it receives the questionnaire responses. Accordingly, the parties will plan to meet and confer on deposition scheduling and attempt to agree on the number of choosing additional deponents from the ranks of the previously-stayed plaintiffs. If the parties are unable to reach agreement on the subject, the parties shall notify the Court and request a status conference to discuss this issue. Plaintiffs for their part do not anticipate needing to conduct additional depositions of witnesses from DIRECTV or the HSPs but reserve the right to do so should the supplemental discovery information raise new issues.

6. Subject to the above, the parties anticipate completing the additional discovery on the previously-stayed plaintiffs by December 30, 2016.

7. Defendants anticipate seeking leave to file limited supplemental briefing related to their pending motions regarding the MasTec and Multiband subclasses and would propose making those filings by January 20, 2017. Plaintiffs will file any supplemental responses by February 10, 2017.

8. DIRECTV requests an in-person status conference to discuss this proposed schedule or any other issue of interest to the Court. Plaintiffs would be happy to make themselves available for a conference if the Court thinks it is needed, but if the Court is satisfied with the parties' proposed schedule, Plaintiffs are prepared to simply move forward as outlined above.

Respectfully submitted,

**LITTLER MENDELSON, P.C.**

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was filed with the Court's CM/ECF system on June 15, 2016. That system will serve a copy on all those requesting notice.

/s/ Bradford B. Lear  
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